
A BILL FOR AN ACT

RELATING TO CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Legislature finds that sex trafficking is
2 an ever-evolving criminal enterprise in which traffickers and
3 exploiters find various means to sexually exploit the most
4 vulnerable in our community. As traffickers change tactics to
5 avoid accountability, our criminal justice system and
6 understanding of sex trafficking must continue to evolve as
7 well.

8 Protecting victims from sexual exploitation and holding
9 offenders accountable is difficult given the disparity in power
10 between the victims and perpetrators. Therefore, amending
11 Hawaii's sex trafficking laws to better reflect the current
12 reality and challenges will improve outcomes for trafficking
13 victims and survivors.

14 Legal terminology is vital to our understanding of sex
15 trafficking in the criminal justice system and in our general
16 community. Creating a separate crime for individuals who
17 purchase people for sex, changing the name of a crime from



1 "solicitation of a minor for prostitution" to "commercial sexual
2 exploitation of a minor", and eliminating the noun "prostitute"
3 will further this objective.

4 Given the seriousness of the offense, the level of the
5 offense for perpetrators who purchase children for sex should be
6 increased to a class B felony. Additionally, due to the fear,
7 trauma, and psychological tactics utilized by traffickers,
8 victims are reluctant to come forward and seek justice until
9 they feel safe and free from their exploiters. Therefore,
10 eliminating the statute of limitation for sex trafficking is
11 necessary to hold these offenders accountable.

12 The Legislature further finds that perpetrators have
13 escaped criminal culpability by exploiting gaps in existing law.
14 Adding the rendering of anything of value as a means of
15 compensation, in addition to a fee, will protect those victims
16 who are being sexually exploited in exchange for drugs, housing,
17 and other non-monetary compensation, while also making our law
18 consistent with the federal definition of human trafficking.
19 Additionally, amending the law to account for situations in
20 which a trafficker or third-party is negotiating or profiting



1 from the exploitation of a minor is necessary to hold the buyer
2 accountable.

3 Accordingly, the purpose of this Act is to:

- 4 (1) Create a separate offense for those who provide
5 anything of value to engage in sexual conduct with
6 another;
- 7 (2) Add sex trafficking to offenses that can be prosecuted
8 at any time;
- 9 (3) Creating strict liability for the crime of sex
10 trafficking, where the victim is a minor;
- 11 (4) Change the name of the crime of solicitation of a
12 minor for prostitution to commercial sexual
13 exploitation of a minor;
- 14 (5) Increase the grade of offense of commercial sexual
15 exploitation of a minor to a class B felony; and
- 16 (6) Add "anything of value" as a type of compensation for
17 purposes of engaging in commercial sexual
18 exploitation.

19 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§712- Commercial sexual exploitation. (1) A person
2 commits the offense of commercial sexual exploitation if the
3 person provides, agrees to provide, or offers to provide a fee
4 or anything of value to another to engage in sexual conduct.

5 (2) As used in this section:

6 "Sexual conduct" has the same meaning as in
7 section 712-1200(2).

8 (3) Except as provided in subsection (4), commercial
9 sexual exploitation is a petty misdemeanor.

10 (4) Commercial sexual exploitation is a class C felony if
11 the person who commits the offense under subsection (1) does so
12 in reckless disregard of the fact that the person exploited is a
13 victim of sex trafficking; otherwise it is a class B felony.

14 (5) A person convicted of committing the offense of
15 commercial sexual exploitation as a petty misdemeanor shall be
16 sentenced as follows:

17 (a) For the first offense, a fine of no less than \$500 but
18 no more than \$1,000 and the person may be sentenced to
19 a term of imprisonment of no more than thirty days or
20 probation; provided that in the event the convicted
21 person defaults in payment of the fine, and the



1 default was not contumacious, the court may make an
2 order converting the unpaid portion of the fine to
3 community service as authorized by section 706-605(1);

4 (b) For any subsequent offense, a fine of no less than
5 \$500 but no more than \$1,000 and a term of
6 imprisonment of thirty days or probation, without
7 possibility of suspension of sentence; and

8 (c) For the purpose of this subsection, when the court has
9 ordered a sentence of probation, the court may impose
10 as a condition of probation that the defendant
11 complete a course of exploitation intervention
12 classes; provided that the court may only impose the
13 condition for one term of probation.

14 (6) This section shall not apply to any member of a police
15 department, a sheriff, or a law enforcement officer acting in
16 the course and scope of duties during undercover operations.
17 Under no circumstances shall sexual penetration or
18 sadomasochistic abuse be considered to fall within the course
19 and scope of duties.

20 (7) A person acting in good faith who:



1 (a) Seeks law enforcement assistance or medical assistance
2 for themselves or others, shall not be charged or
3 prosecuted for prostitution pursuant to subsection
4 (1) (a) if the evidence for the charge of prostitution
5 was obtained as a result of the person seeking medical
6 assistance or law enforcement assistance for
7 themselves or another person; or
8 (b) Is present at the time medical assistance or law
9 enforcement arrives shall not be charged or prosecuted
10 for prostitution pursuant to subsection (1) (a), if the
11 evidence for the charge of prostitution was obtained
12 as a result of another person receiving medical or law
13 enforcement assistance;
14 provided that the protection in this section from prosecution
15 for prostitution crimes under subsection (1) (a) shall not be
16 grounds for suppression of evidence in other criminal charges;
17 the protection in this section shall not apply to a person
18 engaged in other crimes, including and not limited to
19 prostitution under subsection (1) (b), sex trafficking under
20 section 712-1202, promoting prostitution under section 712-1203,
21 loitering for the purpose of engaging in or advancing



1 prostitution under section 712-1206, street solicitation of
2 prostitution under section 712-1207, promoting travel for
3 prostitution under section 712-1208, solicitation of
4 prostitution near schools or public parks under section 712-
5 1209, solicitation of a minor for prostitution under section
6 712-1209.1, or habitual solicitation of prostitution under
7 section 712-1209.5; and the defendant has the burden to prove
8 the defense by a preponderance of the evidence."

9 SECTION 3. Section 701-108, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

11 "(1) A prosecution for murder, murder in the first and
12 second degrees, attempted murder, [~~and~~] attempted murder in the
13 first and second degrees, criminal conspiracy to commit murder
14 in any degree, criminal solicitation to commit murder in any
15 degree, sexual assault in the first and second degrees, sex
16 trafficking, and continuous sexual assault of a minor under the
17 age of fourteen years may be commenced at any time."

18 SECTION 4. Section 712-1200, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (1) to read:



1 "(1) A person commits the offense of prostitution if the
2 person[+

3 ~~(a) Engages]~~ engages in, or agrees or offers to engage in,
4 sexual conduct with another person in return for a
5 fee[~~;~~or

6 ~~(b) Pays, agrees to pay, or offers to pay a fee to another~~
7 ~~to engage in sexual conduct.]~~ or anything of value."

8 2. By amending subsections (3) through (5) to read:

9 "(3) Prostitution is a petty misdemeanor; provided that[+

10 ~~(a) If]~~ if the person who commits the offense under
11 subsection (1) [~~(a)~~] is a minor, prostitution is a
12 violation[~~;~~and

13 ~~(b) If the person who commits the offense under~~
14 ~~subsection (1)(b) does so in reckless disregard of the~~
15 ~~fact that the other person is a victim of sex~~
16 ~~trafficking, prostitution is a class C felony].~~

17 (4) A person convicted of committing the offense of
18 prostitution as a petty misdemeanor shall be sentenced as
19 follows:

20 (a) For the first offense, when the court has not deferred
21 further proceedings pursuant to chapter 853, a fine of



1 ~~[næt]~~ no less than \$500 but ~~[næt]~~ no more than \$1,000
2 and the person may be sentenced to a term of
3 imprisonment of ~~[næt]~~ no more than thirty days or
4 probation; provided that in the event the convicted
5 person defaults in payment of the fine, and the
6 default was not contumacious, the court may ~~[sentence~~
7 ~~the person to perform services for the community]~~ make
8 an order converting the unpaid portion of the fine to
9 community service as authorized by
10 section 706-605(1) ~~[-]~~;

11 (b) For any subsequent offense, a fine of ~~[næt]~~ no less
12 than \$500 but ~~[næt]~~ no more than \$1,000 and a term of
13 imprisonment of thirty days or probation, without
14 possibility of deferral of further proceedings
15 pursuant to chapter 853 and without possibility of
16 suspension of sentence ~~[-]~~; and

17 (c) For the purpose of this subsection, if the court has
18 deferred further proceedings pursuant to chapter 853,
19 and notwithstanding any provision of chapter 853 to
20 the contrary, the defendant shall not be eligible to
21 apply for expungement pursuant to section 831-3.2



1 until three years following discharge. A plea
2 previously entered by a defendant under section 853-1
3 for a violation of this section shall be considered a
4 prior offense. [~~When the court has ordered a sentence
5 of probation, the court may impose as a condition of
6 probation that the defendant complete a course of
7 prostitution intervention classes; provided that the
8 court may only impose the condition for one term of
9 probation.~~]

10 (5) This section shall not apply to any member of a police
11 department, a sheriff, or a law enforcement officer acting in
12 the course and scope of duties [~~, unless engaged in~~] during
13 undercover operations. Under no circumstances shall sexual
14 penetration or sadomasochistic abuse [~~-~~] be considered to fall
15 within the course and scope of duties."

16 SECTION 5. Section 712-1201, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§712-1201 Advancing prostitution; profiting from**
19 **prostitution; definition of terms.** In sections 712-1202
20 and 712-1203:



- 1 (1) A person "advances prostitution" if [~~acting other~~
2 ~~than as a prostitute or a patron of a prostitute,~~] the
3 person knowingly causes or aids a person to commit or
4 engage in prostitution, procures or solicits patrons
5 for prostitution, provides persons for prostitution
6 purposes, permits premises to be regularly used for
7 prostitution purposes, operates or assists in the
8 operation of a house of prostitution or a prostitution
9 enterprise, or engages in any other conduct designed
10 to institute, aid, or facilitate an act or enterprise
11 of prostitution[-];
- 12 (2) A person "profits from prostitution" if [~~acting~~
13 ~~other than as a prostitute receiving compensation for~~
14 ~~personally rendered prostitution services,~~] the person
15 accepts or receives money, anything of value, or other
16 property pursuant to an agreement or understanding
17 with any person whereby the person participates or is
18 to participate in the proceeds of prostitution
19 activity[-]; and
- 20 (3) The definitions in subsections (1) and (2) do not
21 include those engaged in conduct outlined in



1 section 712-1200 as the prostituted person, or in
2 conduct outlined in section 712- as the person
3 engaged in commercial sexual exploitation."

4 SECTION 6. Section 712-1202, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§712-1202 Sex trafficking.** (1) A person commits the
7 offense of sex trafficking if the person knowingly:

8 (a) Advances prostitution or profits from prostitution by
9 compelling or inducing a person by force, threat,
10 fraud, coercion, or intimidation to engage in
11 prostitution[~~, or profits from such conduct by~~
12 ~~another~~]; or

13 (b) Advances or profits from prostitution of a minor[~~+~~
14 ~~provided that with respect to the victim's age, the~~
15 ~~prosecution shall be required to prove only that the~~
16 ~~person committing the offense acted negligently~~].

17 (2) Sex trafficking is a class A felony.

18 (3) As used in this section:

19 "Fraud" means making material false statements,
20 misstatements, or omissions.



1 "Minor" means a person who is less than eighteen years of
2 age.

3 "Threat" means any of the actions listed in
4 section 707-764(1).

5 (4) The state of mind requirement for the offense under
6 subsection (1)(b) is not applicable to the fact that the victim
7 was a minor. A person is strictly liable with respect to the
8 attendant circumstances that the victim was a minor."

9 SECTION 7. Section 712-1207, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending its title and subsections (1) and (2) to
12 read:

13 "~~§712-1207 Street [solicitation of] prostitution[+]~~ and
14 commercial sexual exploitation; designated areas. (1) It shall
15 be unlawful for any person within the boundaries of Waikiki and
16 while on any public property to:

17 (a) Offer or agree to engage in sexual conduct with
18 another person in return for a fee[+] or anything of
19 value; or



1 (b) ~~[Pay, agree to pay, or offer to pay]~~ Provide, agree to
2 provide, or offer to provide a fee or anything of
3 value to another person to engage in sexual conduct.

4 (2) It shall be unlawful for any person within the
5 boundaries of other areas in this State designated by county
6 ordinance pursuant to subsection (3), and while on any public
7 property to:

8 (a) Offer or agree to engage in sexual conduct with
9 another person in return for a fee~~[+]~~ or anything of
10 value; or

11 (b) ~~[Pay, agree to pay, or offer to pay]~~ Provide, agree to
12 provide, or offer to provide a fee or anything of
13 value to another person to engage in sexual conduct."

14 2. By amending subsection (9) to read:

15 "(9) This section shall apply to all counties; provided
16 that if a county enacts an ordinance to regulate street
17 ~~[solicitation for prostitution,]~~ prostitution and commercial
18 sexual exploitation, other than an ordinance designating an area
19 as a zone of significant prostitution-related activity, the
20 county ordinance shall supersede this section and no person
21 shall be convicted under this section in that county."



1 SECTION 8. Section 712-1209, Hawaii Revised Statutes, is
2 amended by amending its title and subsections (1) and (2) to
3 read as follows:

4 " ~~[§]712-1209 [§] Solicitation of prostitution~~ Commercial
5 sexual exploitation near schools or public parks. (1) A person
6 commits the offense of ~~[solicitation of prostitution]~~ commercial
7 sexual exploitation near schools or public parks if, within
8 seven hundred fifty feet of a school or public park, the person
9 ~~[offers or agrees to pay]~~ provides, agrees to provide, or offers
10 to provide a fee or anything of value to another person to
11 engage in sexual conduct.

12 (2) ~~[Solicitation of prostitution]~~ Commercial sexual
13 exploitation near schools or public parks is a misdemeanor."

14 SECTION 9. Section 712-1209.1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§712-1209.1 ~~[Solicitation]~~ Commercial sexual exploitation
17 of a minor [for prostitution]. (1) A person eighteen years of
18 age or older commits the offense of ~~[solicitation]~~ commercial
19 sexual exploitation of a minor ~~[for prostitution]~~ if the person
20 intentionally, knowingly, or recklessly ~~[offers or agrees to pay~~
21 ~~a fee to a minor or to a member of a police department, a~~



1 ~~sheriff, or a law enforcement officer who represents that~~
2 ~~person's self as a minor to engage in sexual conduct.]:~~

3 (a) Provides anything of value to a minor or third person
4 as compensation for having engaged in sexual conduct
5 with a minor;

6 (b) Agrees to provide or offers to provide anything of
7 value to a minor or third person for the purpose of
8 engaging in sexual conduct with a minor; or

9 (c) Solicits, offers to engage in, or requests to engage
10 in sexual conduct with a minor in return for anything
11 of value.

12 (2) [~~Solicitation~~] Commercial sexual exploitation of a
13 minor [~~for prostitution~~] is a class [C] B felony.

14 (3) [A] In addition to any other authorized disposition, a
15 person convicted of committing the offense of [~~solicitation~~]
16 commercial sexual exploitation of a minor [~~for prostitution~~]
17 shall be [~~imposed~~] sentenced to pay a fine of [~~not~~] no less than
18 \$5,000 [~~, provided that \$5,000 of the imposed fine shall be~~
19 ~~credited to the general fund~~].

20 (4) This section shall not apply to any member of a police
21 department, a sheriff, or a law enforcement officer [~~who offers~~



1 ~~er agrees to pay a fee to a minor]~~ while acting in the course
2 and scope of duties.

3 (5) The state of mind requirement for [~~this~~] the offense
4 under subsection (1)(a) is not applicable to the fact that the
5 [~~person solicited~~] victim was a minor. A person is strictly
6 liable with respect to the attendant circumstance that the
7 [~~person solicited~~] victim was a minor, if such person had a
8 reasonable opportunity to observe the victim.

9 (6) Consent of a minor to the sexual conduct does not
10 constitute a defense to any offense in this section.

11 [~~6~~] (7) For purposes of this section:

12 "Minor" means a person who is less than eighteen years of
13 age.

14 "Sexual conduct" has the same meaning as in
15 section 712-1200(2)."

16 SECTION 10. Section 712-1209.5, Hawaii Revised Statutes,
17 is amended to read as follows:

18 "[~~§~~712-1209.5[~~§~~] Habitual [~~solicitation of~~
19 ~~prostitution.~~] commercial sexual exploitation. (1) A person
20 commits the offense of habitual [~~solicitation of prostitution~~]
21 commercial sexual exploitation if the person is a habitual



1 ~~[prostitution]~~ commercial sexual exploitation offender and
2 ~~[pays, agrees to pay, or offers to pay]~~ provides, agrees to
3 provide, or offers to provide a fee or anything of value to
4 another person to engage in sexual conduct.

5 (2) For the purposes of this section, a person has the
6 status of a "habitual ~~[prostitution]~~ commercial sexual
7 exploitation offender" if the person, at the time of the conduct
8 for which the person is charged, had two or more convictions
9 within ten years of the instant offense for:

- 10 (a) ~~[Prostitution,]~~ Commercial sexual exploitation, in
11 violation of section ~~[712-1200(1)(b);]~~ 712- ;
- 12 (b) Street ~~[solicitation of]~~ prostitution~~[,]~~ and
13 commercial sexual exploitation, in violation of
14 section 712-1207(1)(b) ~~[,]~~ or (2)(b);
- 15 (c) Habitual ~~[solicitation of prostitution,]~~ commercial
16 sexual exploitation, in violation of this section;
- 17 (d) An offense of this jurisdiction or any other
18 jurisdiction that is comparable to one of the offenses
19 in paragraph (a), (b), or (c); or
- 20 (e) Any combination of the offenses in paragraph (a), (b),
21 (c), or (d).



1 A conviction for purposes of this section is a judgment on the
2 verdict or a finding of guilt, or a plea of guilty or nolo
3 contendere. The convictions [~~must~~] shall have occurred on
4 separate dates and be for separate incidents on separate dates.
5 At the time of the instant offense, the conviction [~~must~~] shall
6 not have been expunged by pardon, reversed, or set aside.

7 (3) Habitual [~~solicitation of prostitution~~] commercial
8 sexual exploitation is a class C felony."

9 SECTION 11. Section 712-1209.6, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "§712-1209.6 Prostitution; motion to vacate conviction.

12 (1) A person convicted of committing the offense of
13 prostitution under section 712-1200[~~(1)(a)~~], loitering for the
14 purpose of engaging in or advancing prostitution under
15 section 712-1206(2), street [~~solicitation of~~] prostitution and
16 commercial sexual exploitation in designated areas under
17 section 712-1207(1)(a) or [~~712-1207~~](2)(a), or convicted of a
18 lesser offense when originally charged with a violation of
19 section 712-1200[~~(1)(a)~~], 712-1206(2), or 712-1207(1)(a)
20 or [~~712-1207~~](2)(a), may file a motion to vacate the conviction
21 if the defendant is not subsequently convicted of any offense



1 under the Hawaii Penal Code within three years after the date of
2 the original conviction.

3 (2) The court shall hold a hearing on a motion filed under
4 this section to review the defendant's record over the three
5 years after the date of the original conviction under
6 section 712-1200[~~(1)(a)~~], 712-1206(2), or 712-1207(1)(a)
7 or (2)(a) or conviction of a lesser offense when originally
8 charged with a violation of any of those sections, and if the
9 court finds that the defendant has not been convicted of any
10 offense under the [~~penal code~~] Hawaii Penal Code within this
11 three year period, the court shall vacate the conviction."

12 SECTION 12. Section 712A-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§712A-4 Covered offenses.** Offenses for which property is
15 subject to forfeiture under this chapter are:

- 16 (a) All offenses that specifically authorize forfeiture;
17 (b) Murder[]; kidnapping[]; labor trafficking[];
18 unlicensed sale of liquor[]; unlicensed manufacture
19 of liquor[]; gambling[]; criminal property
20 damage[]; robbery[]; bribery[]; extortion[];
21 theft[]; unauthorized entry into motor vehicle[];



1 burglary[~~7~~]; money laundering[~~7~~]; trademark
2 counterfeiting[~~7~~]; insurance fraud[~~7~~]; promoting a
3 dangerous, harmful, or detrimental drug[~~7~~]; commercial
4 promotion of marijuana[~~7~~]; methamphetamine
5 trafficking[~~7~~]; manufacturing of a controlled
6 substance with a child present[~~7~~]; promoting child
7 abuse[~~7~~]; promoting prostitution[~~7~~]; sex
8 trafficking[~~7~~]; [~~solicitation~~] commercial sexual
9 exploitation of a minor [~~for prostitution~~]; habitual
10 [~~solicitation of prostitution~~] commercial sexual
11 exploitation; or electronic enticement of a child that
12 is chargeable as a felony offense under state law;
13 (c) The manufacture, sale, or distribution of a controlled
14 substance in violation of chapter 329, promoting
15 detrimental drugs or intoxicating compounds, promoting
16 pornography, promoting pornography for minors, or
17 [~~solicitation of prostitution~~] commercial sexual
18 exploitation near schools or public parks, which is
19 chargeable as a felony or misdemeanor offense, but not
20 as a petty misdemeanor, under state law; and



1 (d) The attempt, conspiracy, solicitation, coercion, or
2 intimidation of another to commit any offense for
3 which property is subject to forfeiture."

4 SECTION 13. Section 806-83, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Criminal charges may be instituted by written
7 information for a felony when the charge is a class C felony,
8 except under:

- 9 (1) Section 159-28 (bribery related to the Hawaii Meat
10 Inspection Act);
- 11 (2) Section 161-28 (bribery related to the Hawaii Poultry
12 Inspection Act);
- 13 (3) Section 707-712.5 (assault against a law enforcement
14 officer in the first degree);
- 15 (4) Section 707-716 (terroristic threatening in the first
16 degree);
- 17 (5) Section 707-732 (sexual assault in the third degree);
- 18 (6) Section 707-741 (incest);
- 19 (7) Section 707-752 (promoting child abuse in the third
20 degree);
- 21 (8) Section 708-880 (commercial bribery);



- 1 (9) Section 709-904.5 (compensation by an adult of
- 2 juveniles for crimes);
- 3 (10) Section 710-1026.9 (resisting an order to stop a motor
- 4 vehicle in the first degree);
- 5 (11) Section 710-1070 (bribery of or by a witness);
- 6 (12) Section 710-1071 (intimidating a witness);
- 7 (13) Section 710-1072.2 (retaliating against a witness);
- 8 (14) Section 710-1073 (bribery of or by a juror);
- 9 (15) Section 710-1075 (jury tampering);
- 10 (16) Section 710-1075.5 (retaliating against a juror);
- 11 (17) Section 711-1106.4 (aggravated harassment by
- 12 stalking);
- 13 (18) Section 711-1110.9 (violation of privacy in the first
- 14 degree);
- 15 (19) Section 712-1208 (promoting travel for prostitution);
- 16 ~~[(20) Section 712-1209.1 (solicitation of a minor for~~
- 17 ~~prostitution)]~~;
- 18 ~~[(21)]~~ (20) Section 712-1209.5 (habitual [~~solicitation of~~
- 19 ~~prostitution)]~~ commercial sexual exploitation);
- 20 ~~[(22)]~~ (21) Section 712-1215 (promoting pornography for
- 21 minors);



- 1 ~~[(23)]~~ (22) Section 712-1218 (failure to maintain age
2 verification records of sexual performers);
- 3 ~~[(24)]~~ (23) Section 712-1218.5 (failure to maintain age
4 verification records of sexually exploited
5 individuals); and
- 6 ~~[(25)]~~ (24) Section 712-1219 (failure to affix information
7 disclosing location of age verification records of
8 sexual performers)."

9 SECTION 14. Section 846E-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "sexual offense" to read
11 as follows:

- 12 "Sexual offense" means an offense that is:
- 13 (1) Set forth in section 707-730(1), 707-731(1),
14 707-732(1), 707-733(1)(a), 707-733.6, 712- (4),
15 712-1202(1), or 712-1203(1), but excludes conduct that
16 is criminal only because of the age of the victim, as
17 provided in section 707-730(1)(b), or
18 section 707-732(1)(b) if the perpetrator is under the
19 age of eighteen;
- 20 (2) An act defined in section 707-720 if the charging
21 document for the offense for which there has been a



1 conviction alleged intent to subject the victim to a
2 sexual offense;

3 (3) An act that consists of:

4 (A) Criminal sexual conduct toward a minor, including
5 but not limited to an offense set forth in
6 section 707-759;

7 (B) Solicitation of a minor who is less than fourteen
8 years old to engage in sexual conduct;

9 (C) Use of a minor in a sexual performance;

10 (D) Production, distribution, or possession of child
11 pornography chargeable as a felony under
12 section 707-750, 707-751, or 707-752;

13 (E) Electronic enticement of a child chargeable under
14 section 707-756 or 707-757 if the offense was
15 committed with the intent to promote or
16 facilitate the commission of another covered
17 offense as defined in this section; or

18 (F) [~~Solicitation~~] Commercial sexual exploitation of
19 a minor [~~for prostitution~~] in violation of
20 section 712-1209.1;

21 (4) A violation of privacy under section 711-1110.9;



- 1 (5) An act, as described in chapter 705, that is an
- 2 attempt, criminal solicitation, or criminal conspiracy
- 3 to commit one of the offenses designated in
- 4 paragraphs (1) through (4);
- 5 (6) A criminal offense that is comparable to or that
- 6 exceeds a sexual offense as defined in paragraphs (1)
- 7 through (5); or
- 8 (7) Any federal, military, out-of-state, tribal, or
- 9 foreign conviction for any offense that under the laws
- 10 of this State would be a sexual offense as defined in
- 11 paragraphs (1) through (6)."

12 SECTION 15. Section 853-4, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

- 14 "(a) This chapter shall not apply when:
- 15 (1) The offense charged involves the intentional, knowing,
- 16 reckless, or negligent killing of another person;
- 17 (2) The offense charged is:
 - 18 (A) A felony that involves the intentional, knowing,
 - 19 or reckless bodily injury, substantial bodily
 - 20 injury, or serious bodily injury of another
 - 21 person; or



- 1 (B) A misdemeanor or petty misdemeanor that carries a
2 mandatory minimum sentence and that involves the
3 intentional, knowing, or reckless bodily injury,
4 substantial bodily injury, or serious bodily
5 injury of another person;
6 provided that the prohibition in this paragraph shall
7 not apply to offenses described in
8 section 709-906(18);
- 9 (3) The offense charged involves a conspiracy or
10 solicitation to intentionally, knowingly, or
11 recklessly kill another person or to cause serious
12 bodily injury to another person;
- 13 (4) The offense charged is a class A felony;
- 14 (5) The offense charged is nonprobationable;
- 15 (6) The defendant has been convicted of any offense
16 defined as a felony by the Hawaii Penal Code or has
17 been convicted for any conduct that if perpetrated in
18 this State would be punishable as a felony;
- 19 (7) The defendant is found to be a law violator or
20 delinquent child for the commission of any offense
21 defined as a felony by the Hawaii Penal Code or for



1 any conduct that if perpetrated in this State would
2 constitute a felony;

3 (8) The defendant has a prior conviction for a felony
4 committed in any state, federal, or foreign
5 jurisdiction;

6 (9) A firearm was used in the commission of the offense
7 charged;

8 (10) The defendant is charged with the distribution of a
9 dangerous, harmful, or detrimental drug to a minor;

10 (11) The defendant has been charged with a felony offense
11 and has been previously granted deferred acceptance of
12 guilty plea or no contest plea for a prior offense,
13 regardless of whether the period of deferral has
14 already expired;

15 (12) The defendant has been charged with a misdemeanor
16 offense and has been previously granted deferred
17 acceptance of guilty plea or no contest plea for a
18 prior felony, misdemeanor, or petty misdemeanor for
19 which the period of deferral has not yet expired;

20 (13) The offense charged is:

21 (A) Escape in the first degree;



- 1 (B) Escape in the second degree;
- 2 (C) Promoting prison contraband in the first degree;
- 3 (D) Promoting prison contraband in the second degree;
- 4 (E) Bail jumping in the first degree;
- 5 (F) Bail jumping in the second degree;
- 6 (G) Bribery;
- 7 (H) Bribery of or by a witness;
- 8 (I) Intimidating a witness;
- 9 (J) Bribery of or by a juror;
- 10 (K) Intimidating a juror;
- 11 (L) Jury tampering;
- 12 (M) Promoting prostitution;
- 13 (N) Abuse of family or household member except as
- 14 provided in paragraph (2) and
- 15 section 709-906(18);
- 16 (O) Sexual assault in the second degree;
- 17 (P) Sexual assault in the third degree;
- 18 (Q) A violation of an order issued pursuant to
- 19 chapter 586;
- 20 (R) Promoting child abuse in the second degree;
- 21 (S) Promoting child abuse in the third degree;



- 1 (T) Electronic enticement of a child in the first
2 degree;
- 3 (U) Electronic enticement of a child in the second
4 degree;
- 5 (V) [~~Prostitution~~] Commercial sexual exploitation
6 pursuant to section [~~712-1200(1)(b)~~] 712- ;
- 7 (W) Street [~~solicitation of~~] prostitution and
8 commercial sexual exploitation under
9 section 712-1207(1)(b) [~~+~~] or (2)(b);
- 10 (X) [~~Solicitation of prostitution~~] Commercial sexual
11 exploitation near schools or public parks under
12 section 712-1209;
- 13 (Y) Habitual [~~solicitation of prostitution~~]
14 commercial sexual exploitation under
15 section 712-1209.5; or
- 16 (Z) [~~Solicitation~~] Commercial sexual exploitation of
17 a minor [~~for prostitution~~] under
18 section 712-1209.1;
- 19 (14) The defendant has been charged with:
- 20 (A) Knowingly or intentionally falsifying any report
21 required under [~~chapter 117~~] part XIII of



1 chapter 11, with the intent to circumvent the law
2 or deceive the campaign spending commission; or
3 (B) Violating section 11-352 or 11-353; or
4 (15) The defendant holds a commercial driver's license and
5 has been charged with violating a traffic control law,
6 other than a parking law, in connection with the
7 operation of any type of motor vehicle."

8 SECTION 16. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun, before the effective date of this Act.

11 SECTION 17. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 18. This Act shall take effect on July 1, 3021.



Report Title:

Crime; Sex Trafficking, Prostitution, and Related Offenses

Description:

Creates a separate offense for those who provide anything of value to engage in sexual conduct with another. Adds sex trafficking to offenses that can be prosecuted at any time. Makes a person strictly liable for sex trafficking of a minor in terms of the victim's age. Changes the name of the crime of solicitation of a minor for prostitution to commercial sexual exploitation of a minor. Increases the grade of the offense of commercial sexual exploitation of a minor to a class B felony. Adds "anything of value" as a type of compensation for purposes of engaging in commercial sexual exploitation. Establishes good faith exemption to the crime of commercial sexual exploitation for individuals who seek law enforcement or medical assistance for themselves and others. Effective 7/1/3021. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

